

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SERIOUS USA, INC; SERIOUS IP, INC.; :  
AND DXPDD, LLC, :  
Plaintiffs, :  
v. : Civ. Action No. 08-cv-4808 (GBD) (AJP)  
:  
CD DIGITAL CARD; CD WORKS; :  
DISCMAKERS; IMX SOLUTIONS, INC; :  
INFINITE MARKETING INC; INGRAM :  
MICRO INC; L&M OPTICAL DISC, LLC; :  
MICROVISION DEVELOPMENT, INC.; :  
ONEDISC.COM, INC.; and SONARUS :  
CORPORATION, :  
Defendants. :  
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**REPLY OF PLAINTIFFS TO THE COUNTERCLAIM  
OF CD DIGITAL CARD AND ONEDISC.COM, INC.**

Serious USA, Inc.; Serious IP, Inc.; and DXPDD, LLC (“Plaintiffs”), by and through its counsel, Dreier LLP, as and for its Reply to the Counterclaim (the “Counterclaim”) filed by CD Digital Card and OneDisc.com, Inc. (“Defendants”), state as follows:

**COUNTERCLAIM**

1. Plaintiffs deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Counterclaim.
2. Plaintiffs deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Counterclaim.
3. In response to the allegations contained in Paragraph 3 of the Counterclaim, Plaintiffs admit that the Counterclaim purports to state a claim for relief under Title 35 U.S.C. § 1 *et seq.* and that this Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 (a) that

venue is proper in this District pursuant to Title 28 U.S.C. §§ 1391(b)(c) and 1400(b); Plaintiffs assert that the Complaint filed in the action speak for itself and Plaintiffs respectfully refer the Court to those pleadings for the true and complete content thereof, and otherwise Plaintiffs deny the remaining allegations contained in Paragraph 3 of the Counterclaim.

4. Plaintiffs deny the allegations contained in Paragraph 4 of the Counterclaim.
5. Plaintiffs deny the allegations contained in Paragraph 5 of the Counterclaim.
  - (a) Plaintiffs deny the allegations contained in Paragraph 5(a) of the Counterclaim;
  - (b) Plaintiffs deny the allegations contained in Paragraph 5(b) of the Counterclaim;
  - (c) Plaintiffs deny the allegations contained in Paragraph 5(c) of the Counterclaim;
  - (d) Plaintiffs deny the allegations contained in Paragraph 5(d) of the Counterclaim;
  - (e) Plaintiffs deny the allegations contained in Paragraph 5(e) of the Counterclaim;
  - (f) Plaintiffs deny the allegations contained in Paragraph 5(f) of the Counterclaim;
  - (g) Plaintiffs deny the allegations contained in Paragraph 5(g) of the Counterclaim;
  - (h) Plaintiffs deny the allegations contained in Paragraph 5(h) of the Counterclaim; and

- (i) Plaintiffs deny the allegations contained in Paragraph 5(i) of the Counterclaim.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against Defendants and awarding Plaintiffs the following relief:

- A. Dismissing Defendants' alleged claims contained in the Counterclaim with prejudice;
- B. Adjudging that Defendants have infringed, are infringing, have induced and are inducing others to infringe, and have contributed and are contributing to, the infringement of U.S. Patent Nos. D503,404; 6,510,124; 6,762,988; 7,308,696; 5,982,736; 6,304,544; 6,078,557; D502,469 and 6,016,298 (the "Patents-in-Suit");
- C. Permanently enjoining Defendants, their agents, servants, subsidiaries, affiliates, employees and those in active concert or participation with any of them, from further infringement, inducement of infringement or contributory infringement of the Patents-in-Suit;
- D. Adjudging that the Patents-in-Suit are valid;
- E. Awarding Plaintiffs damages adequate to fully compensate them for infringement by Defendants of the Patents-in-Suit in accordance with, *inter alia*, 35 U.S.C. § 284, and including pre-judgment and post-judgment interest;
- F. Adjudging that Defendants' infringement of the Patents-in-Suit is and continues to be willful and deliberate and awarding Plaintiffs enhanced damages pursuant to 35 U.S.C. § 284;
- G. Trebling the compensatory damages due Plaintiffs;
- H. Adjudging that this is an exceptional case under 35 U.S.C. § 285 and awarding Plaintiffs their attorneys' fees, costs and expenses in this action; and
- I. Ordering such other and further relief as the Court deems just and equitable.

Dated: New York, New York  
August 4, 2008

DREIER LLP

By: /s/Karine Louis

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Attorneys for Plaintiffs Serious USA, Inc.;  
Serious IP, Inc.; and DXPDD, LLC

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand trial by jury of all claims and issues so triable.

Dated: New York, New York  
August 4, 2008

DREIER LLP

By: /s/Karine Louis  
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Attorneys for Plaintiffs Serious USA, Inc.;  
Serious IP, Inc.; and DXPDD, LLC

**DECLARATION OF SERVICE**

I, Karine Louis, declare that on the 4<sup>th</sup> day of August 2008, I caused a true and correct copy of the Reply of Plaintiffs to the Counterclaim of CD Digital Card and OneDisc.com, Inc., to be served upon the following person in the manner indicated:

*By ECF:*

Keith D. Nowak  
Carter Ledyard & Milburn LLP  
nowak@clm.com

Attorneys for Defendants CD Digital Card  
and OneDisc.com, Inc.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 4<sup>th</sup> day of August 2008 at New York, New York.

/s/Karine Louis

Karine Louis

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